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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,040	12/06/2001	John C. Hiatt JR.	113609-002	6549
	590 04/05/2007 - LLOYD LLP		EXAMINER	
BELL, BOYD & LLOYD, LLP P.O. Box 1135 CHICAGO, IL 60690			GREIMEL, JOCELYN	
			ART UNIT	PAPER NUMBER
			3693	
				٠
SHORTENED STATUTORY	PERIOD OF RESPONSE	MAIL DATE	DELIVER	Y MODE
31 DAYS		04/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

		Application No.	Applicant(s)			
		10/017,040	HIATT ET AL.			
	Office Action Summary	Examiner	Art Unit			
		Jocelyn Greimel	3693			
	The MAILING DATE of this communication appears on the cover sheet with the correspondence address					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status						
 Responsive to communication(s) filed on <u>06 December 2001</u>. This action is FINAL. 2b)⊠ This action is non-final. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213. 						
Dispositi	on of Claims					
4) Claim(s) 1-29 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-29 are subject to restriction and/or election requirement.						
Applicati	on Papers					
 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. 						
Priority (ınder 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
Attachmen	t(s)					
2) Notice 3) Information	ce of References Cited (PTO-892) ce of Draftsperson's Patent Drawing Review (PTO-948) mation Disclosure Statement(s) (PTO/SB/08) or No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Di 5) Notice of Informal F 6) Other:	ate			

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DETAILED ACTION

1. The following communication is in response to Applicant's application filed 06 December 2001.

Status of Claims

2. Claims 1-29 are currently pending. Claims 1, 18 and 29 are independent claims. In view of Applicant's claims, the election to one of the following inventions is deemed necessary. The restrictions cited are as stated below:

Election/Restrictions

- 3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - 1. Claims 1-28 are drawn to a method and apparatus for creating an option that will be at-the-money on a strike price setting date a predefined period of time prior to expiration of the option, and which may be held and traded prior to the strike price setting date.
 - 2. Claim 29 is drawn to a method for converting a delayed start option contract based on an underlying asset having a variable value to a standard option contract traded on an exchange.
- 4. The inventions are distinct, each from the other because of the following reasons: Inventions 1-2 are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, the subcombinations have separate utility such as:

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1. Claims 1-28 create a specific type of option that will be at-the-

money on a strike price setting and details a time period for the option that

is created.

2. Claim 29 converts a delayed start option to a standard option

contract and involves underlying asset.

See MPEP § 806.05(d).

5. The examiner has required restriction between subcombinations usable together.

Where applicant elects a subcombination and claims thereto are subsequently found

allowable, any claim(s) depending from or otherwise requiring all the limitations of the

allowable subcombination will be examined for patentability in accordance with 37 CFR

1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a

continuation or divisional application is anticipated by, or includes all the limitations of, a

claim that is allowable in the present application, such claim may be subject to

provisional statutory and/or nonstatutory double patenting rejections over the claims of

the instant application.

6. Because these inventions are distinct for the reasons given above and have

acquired a separate status in the art as shown by their different concepts, restriction for

examination purposes as indicated is proper. Applicant is advised that the response to

this requirement to be complete must include an election of one of the inventions 1-2 to

be examined even though the requirement be traversed (37 C.F.R. § 1.143).

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- 7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).
- 8. A shortened statutory period for response to this action is set to expire 1 (one) month or 30 (thirty) days from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C 133, M.P.E.P 710.02, 710.02(b)).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached at (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information

Jocelyn Greimel Examiner, Art Unit 3693 March 20, 2007

JAMES A. KRAMER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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